

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 27, 2009

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Kauai

Request to Extend Forfeiture of Revocable Permit No. S-6040, John K. Hashimoto and Junedale U. Hashimoto, Permittee, Anini, Hanalei, Kauai Tax Map Key: (4) 5-3-07:5

BACKGROUND:

The Land Board at its meeting of January 23, 2009, under Agenda item D-1, approved staff's recommendation to authorize the forfeiture of Revocable Permit No. S-6040, but deferred forfeiture for 60 days for staff to work with the tenant on a realistic payment plan (schedule). Furthermore, the Board instructed staff to research the possibility of reducing the rent prospectively. The 60-day period is from January 23, 2009 to March 23, 2009.


By letter dated March 5, 2009, Mr. Clyde Namuo, Administrator for the Office of Hawaiian Affairs is requesting the Land Board to extend the deadline to work with the family on a mutually acceptable solution. (Exhibit A)

Staff is okay with extending the deadline from March 23, 2009 to May 22, 2009. This is the 2nd meeting date for the Land Board.

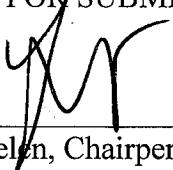
RECOMMENDATION: That the Board:

1. Extend the deadline from March 23, 2009 to May 22, 2009.
2. All terms and conditions listed in its January 23, 2009 approval to remain the same.

Respectfully Submitted,


Charlene Unoki
Assistant Administrator

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson





STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
 711 KAPI'OLANI BOULEVARD, SUITE 500
 HONOLULU, HAWAII 96813

March 5, 2009

RECEIVED

MAR 10 10:00

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

Laura H. Thielen, Chairperson
 Board of Land and Natural Resources
 Kalanimoku Building
 1151 Punchbowl Street
 Honolulu, HI 96813

RECEIVED
LAND DIVISION
2009 MAR 12 10:00
DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

**Re: Forfeiture of Revocable Permit No. S-6040, John K. Hashimoto and
 Junedale U. Hashimoto, Permittee, Anini, Hanalei, Kaua'i; Tax Map
 Key (4) 5-3-07:5**

Aloha e Chairperson Thielen:

Recently, the above-referenced matter was brought to the attention of the Office of Hawaiian Affairs ("OHA") Board of Trustees ("BOT") by the current tenant and OHA beneficiary, Ms. Junedale Hashimoto. It is our understanding that her family has continuously resided on this property for nearly 100 years but now faces eviction due to non-payment of rent. For this reason, OHA agreed to investigate the matter. To this end, OHA staff spoke with individual family members, examined genealogical records, and reviewed relevant documents including the court records and files in the Estate of Esther Woodward Peters¹, property conveyance documents pertaining to the subject parcel executed between 1911 and 1983, various correspondence between the family and the Office of the Commissioner of Public Lands, DLNR, and the Department of the Attorney General, minutes of Board of Land and Natural Resources ("BLNR") meetings, and other relevant public records.

Our research indicates that the current tenants and their relation descend from Henry Peters, the original leaseholder of a 999-year homestead lease issued for the property in 1911.² It appears that through the years, interest in said lease was shared by various family members and eventually came to vest, in total, in Esther W. Peters. Upon her death on September 19, 1980, state statutes in effect at the time directed that all the interest in the 999-year homestead lease vest and pass to her children to hold as joint tenants.³ On July 24, 1981, however, the State executed a Special Sale Agreement with one joint interest holder, Verdelle Lum, in apparent contradiction of the statutory mandate and to the exclusion of the other joint interest holders.

¹ Probate Case No. 2516, Fifth Circuit Court, State of Hawai'i.

² See, Territory of Hawai'i, Homestead Lease No. 8 (Aug. 11, 1911).

³ See, HRS §§ 171-99(e), 560:2-102, 560:2-103, and 560:2-105 (Supp. 1980).

EXHIBIT "A"

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The following year, said agreement was cancelled due to non-payment.⁴ For reasons unknown, however, the 999-year homestead lease was also cancelled. DLNR subsequently issued a revocable permit to relatives John and Junedale Hashimoto in 1983.⁵

It is our understanding that at a meeting held on January 23, 2009, the BLNR deferred the instant matter for a period of 60 days "for staff to work with the tenant on a realistic payment plan (schedule) ... [and] research the possibility of reducing the rent prospectively."⁶ Based on the concerns raised above, OHA believes that this matter deserves further investigation by DLNR. In the interest of fairness and in recognition of the immeasurable cultural value of preserving the connection between Hawaiian families and their homelands, OHA requests that BLNR extend the above-mentioned 60-day period to afford the current tenant and DLNR the requisite time to conduct the appropriate research and reach a mutually acceptable solution.

Thank you for your careful consideration of this matter. Should you have any questions or need additional information, please contact Ernest Kimoto, Counsel to the Administrator, at 594-1954 or erniek@oha.org.

'O wau iho nō,



Clyde W. Nāmu'o
Administrator

CWN/emk

c: OHA Board of Trustees

Ernie Kimoto, Counsel to the Administrator

Kai Markell, Director, Native Rights Land and Culture

OHA Kaua'i—CRC

Camille Kalama, Esq.
Native Hawaiian Legal Corp.
1164 Bishop Street, Suite 1205
Honolulu, HI 96813

Mr. Bruce Lum
99546 Iwaiwa Street
Aiea, HI 96701-3314

⁴ See, Special Sale Agreement No. S-5567 dated July 24, 1981.

⁵ See, Revocable Permit No. S-6040 (Aug. 30, 1983).

⁶ Minutes for the Meeting of the Board of Land and Natural Resources, p. 6 (Jan. 23, 2009).

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